

REMARKS/ARGUMENTS

Claims 1-3, 5 and 7-39 are currently pending in the application. Claims 1-3, 5 and 7-39 were rejected in the Office Action mailed September 28, 2009 (hereinafter referred to as "Office Action").

This amendment is being submitted with a petition for a three month extension of time to extend the due date from December 28, 2009 to March 28, 2010. Applicant respectfully submits that this response is timely filed on Monday, March 29, 2010 since the extended due date fell on Sunday, March 28, 2010. A credit card authorization for the required fees is being submitted herewith. The Commissioner is hereby authorized to charge any additional fees, or credit any refunds, to Chalker Flores, LLP's Deposit Account No. 50-4863.

It is believed that no other fees are due at this time. In view of the following remarks and amendments, applicants respectfully request a timely Notice of Allowance be issued in this case.

Double Patenting Claim Rejections

The Office Action rejected claims 1-3, 5 and 7-39 under the nonstatutory, judicially created doctrine of double patenting over claims 1-3, 5 and 7-39 of United States Patent Application number 10/691,227 (the '227 Application).

A terminal disclaimer in compliance with 37 CFR 1.321(c) will be filed upon allowance of the claims of either the instant application or the '227 Application to overcome the rejection based on a nonstatutory double patenting ground provided the conflicting patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Claim Rejections under 35 U.S.C. § 101

The Office Action rejected claims 1-3, 5 and 7-24 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. These rejections are primarily based on In re Bilski decided by the Court of Appeals for the Federal Circuit. The U.S. Supreme Court is expected to render its decision in Bilski v. Kappos at any time now. Since this decision will establish the proper test for determining statutory subject matter, applicants respectfully submit that amending claims 1-3, 5 and 7-24 to conform to the machine or transformation test in response to the Office Action is premature.

Claim Rejections under 35 U.S.C. § 103(a)

Claims 1-3, 5, 7-14, 17-30 and 33-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application No. 7,043,449 to Li et al. in view of U.S. Publication No. 2007/0078755 to Olsen et al. Applicants respectfully submit that claims 1- 13, 18-30 and 34-39, as amended, are patentable over the cited references for at least the reasons described below.

First, the Office Action indicated that Li teaches “calculating a first opening value trend for the first time intervals. . . a second opening value trend for the second opening values. . . a first closing value trend for the first time intervals . . . and a second closing value trend for the second intervals. . . . (page 6, lines 14-20). Applicants respectfully submit that the portions of Li cited to support this conclusion do not disclose, teach or suggest calculating both opening value and closing value trends for two time intervals that are not equal to one another. Instead, Li teaches creating candlesticks using the open, close, high and low prices for a single time interval:

FIG. 1-A shows a bar in a conventional Bar Chart while FIG. 1-B shows a bar in a conventional Japanese Candlestick Chart. FIG. 1-B (I) shows the bar when the close price 25 is above the open price 10 while FIG. 1-B (II) shows the close price 25 being below the open price 10. As shown in FIG. 1-B, the rectangle enclosing the open 10 and close 25 price of the bar is called the "body" of the bar. By conventional standard, if the close 25 price is higher than the open 45 price 10, the body is hollow, as shown in FIG. 1-B (I). If the close price 25 is lower than the open price 10, the body is filled, as shown in FIG. 1-B (II). (col. 2, lines 37-47).

In one of the preferred embodiments, if the underlying price-time chart is a Bar Chart, the appearance of a bar of the present invention is shown in FIG. 2-A. FIG. 2-A (I) shows the case of the close price 25 being above the open price 10 while FIG. 2-A (II) shows the close price 25 being below the open price 10. In both diagrams, the Modal Point 35 is marked as a small colored dot on the central axis of the bar. In FIG. 2-A, only the Active Range 30 but not the Dense Area 45 is displayed. The Active Range 30 is displayed as a rectangle enclosing symmetrically around the central axis (the line connecting the high and low) of the bar with a coloring scheme which distinguishes it from whether the close 25 is above or below the open 10. In one preferred embodiment, if the close 25 is above the open 10, as shown in FIG. 2-A (I), the rectangle is hollow. Otherwise, it is colored, as shown in FIG. 2-A (II). This coloring scheme makes the rectangle resemble the body of the Japanese Candlestick and thus the resulting bar of the present invention looks familiar to users who are used to viewing the Japanese Candlestick Chart. (col. 2, lines 48-67).

For example, it can establish a warm link using a DDE protocol and submit a DDE data request 145 to the data vendor 125 which then returns the given fetched data 150 via a handshaking mechanism. Afterwards, in step 165, the chart program 110 calculates the relevant intra-market elements using the fetched data 150. Alternatively, the elements can be also fetched from database 115 if they have been calculated and stored previously during a prior chart request in step 160. After fetching the data and calculating the elements, the chart program 110 displays the conventional bar chart of the requested timeframe (Bar chart or Japanese Candlestick) in step 170 and then graphically overlay the corresponding intra-market elements on it in step 175. The fetched chart 135 is then shown to the user 105 via the end user interface 130. Calculated intra-market elements are stored in database 115 for future use. The above calculations are normally finished in less than one second. It should be noted that steps 170 and 175 can be performed by the chart program 115 together. (col. 7, lines 2-21).

The graph in Figure 2-A-I only shows one time interval – days. Moreover, the charts disclosed in Li are not produced by calculating trends. In fact, the word “trend” is never used in Li. As a result, applicants respectfully submit that Li does not disclose, teach or suggest calculating both opening value and closing value trends for two time intervals that are not equal to one another as recited in claims 1, 25 and 39.

Second, the Office Action indicated that Li teaches displaying visual favorable/unfavorable trade indicators based on a comparison of opening value trends to closing value trends for a specific time interval. (page 7, line 3-page 8, line 2). Applicants respectfully disagree because Li does not calculate or compare trends. Figures 2A of Li merely teaches the use of various values (e.g., high, close, active range, modal point, open and low) to create a candlestick for one time interval (e.g., days). Applicants respectfully submit that the indicators in Li are not based on trends. In fact, the word “trend” is never used in Li. As a result, applicants respectfully submit that Li does not disclose, teach or suggest displaying visual favorable/unfavorable trade indicators based on a comparison of opening value trends to closing value trends for a specific time interval as recited in claims 1, 25 and 39.

Third, applicants respectfully submit Li does not disclose, teach or suggest “simultaneously displaying at least a first visual favorable/unfavorable trade indicator for the first time intervals and a second visual favorable/unfavorable trade indicator for the second time intervals” as recited in claims 1, 25 and 39. Instead, Li merely teaches displaying indicators for one time interval at a time (e.g., days in Figure 2-A-I).

Fourth, applicants respectfully submit Li does not disclose, teach or suggest “the first and second visual favorable/unfavorable trade indicators signal whether it will be favorable or unfavorable to execute a trade involving the currency pair for the respective time intervals” as recited in claims 1, 25 and 39.

Fifth, the Office Action indicated that Li does “not teach obtaining market information for a currency pair for first and second interval where first interval is not equal to second interval” and then cited Olsen to cure this deficiency because Olsen allows the user to select the currency pair and the time interval for the graphical display (page 8, lines 3-8). Applicants respectfully submit that Olsen does not cure the deficiencies of Li because Olsen performs calculations and displays information based only on a single time interval selected by the user (Figures 2, 5 and 12). Olsen does not disclose, teach or suggest calculating data for two time intervals and then “simultaneously displaying at least a first visual favorable/unfavorable trade indicator for the first time intervals and a second visual favorable/unfavorable trade indicator for the second time intervals” as recited in claims 1, 25 and 39.

For at least the foregoing reasons, applicants respectfully submit that Li and Olsen, either alone or in combination, do not disclose, teach or suggest all of the elements recited in claims 1, 25 and 39. Accordingly, applicants respectfully submit that claims 1, 25 and 39 are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103(a). Applicants respectfully request that the rejection of claims 1, 25 and 39 be withdrawn.

Claims 2-3, 5, 7-24 and 26-38

Applicants respectfully submit that claims 2-3, 5, 7-24 and 26-38 depend from claims 1 and 25 which are allowable for the reasons stated above, and further distinguish over the cited references. In addition, applicants respectfully submit that the cited references do not disclose, teach or suggest repeating the claimed steps for different time intervals” as recited in claims 20-22. Claims 2-3, 5, 7-24 and 26-38 are, therefore, allowable under 35 U.S.C. § 103(a). Accordingly, applicants respectfully request that any rejection of claims 2-3, 5, 7-24 and 26-38 be withdrawn.

Appl. No. 10/691,257
Amdt. dated Mar. 29, 2010
Reply to Office Action of Sept. 28, 2009

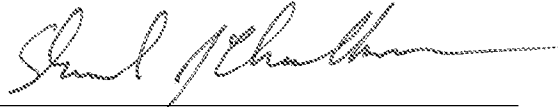
Conclusion

For the reasons set forth above, applicants respectfully request reconsideration by the examiner and withdrawal of the rejections. Applicants submit that claims 1-3, 5 and 7-39 as amended, are fully patentable. Applicants respectfully request that a timely Notice of Allowance be issued in this case. If the examiner has any questions or comments, or if further clarification is required, it is requested that the examiner contact the undersigned at the telephone number listed below.

Dated: March 29, 2010

Respectfully submitted,

CHALKER FLORES, LLP

By 

Daniel J. Chalker

Reg. No. 40,552

Tel.: (214) 866-0001

Fax: (214) 866-0010

2711 LBJ Frwy, Suite 1036
Dallas, Texas 75234